

**BOARD OF FORESTRY AND FIRE PROTECTION
PROFESSIONAL FORESTERS REGISTRATION**

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Website: www.bof.fire.ca.gov/licensing/licensing_main.html**Professional Foresters Examining Committee****OPEN SESSION MEETING MINUTES****Held: April 4, 2018**

Resources Building, 1416 9th Street
16th Floor Conference Room, No. 1654-3
Sacramento, California

Members Present:

Otto van Emmerik
Kim Rodrigues
Larry Forero
Bill Snyder
Jason Poburko
Dan Sendek

Staff Participating:

Dan Stapleton, Assistant Executive Officer
Shuhani Patel, Assistant to the Executive Officer

Board of Forestry:

Matt Dias
Eric Hedge
Eliana Camargo

Rancho Guejito:

Hank Rupp
Taiga Takahashi
Bill Thomas

CLFA:

George Gentry

CAL Pac

Susan Marshall

Board Member:

Katie Delbar

Facilitator:

Susie Kocher

1. Approval of Open Session Minutes of February 13, 2018 Minutes.

Minutes were reviewed with minor recommended changes requested.

**4-4-01 Rodrigues moved for the approval of the February 13, 2018 minutes with minor changes.
Member Snyder seconded.**

Roll Call: Rodrigues (Aye); van Emmerik (Aye); Poburko (Aye); Forero (Aye); Snyder (Aye); Sendek (Abstains). Motion carries unanimously

2. Reports from the Chairman and Executive Officer.

EO Stapleton mentioned that there have been no new complaints filed. There have been no nominees submitted for the Francis H. Raymond award. The nominees are due by June 1st, 2018.

3. Discussion of CRM certification/licensing and petition for rulemaking by Latham & Watkins for Rancho Guejito.

Member Rodrigues stated that the history of the Rancho Guejito case should only be discussed if it is relevant to future solutions to the issues.

Latham & Watkins CRM Petition Item #1 - to ensure enforcement of the requirement that licensees have “good moral character” and a “good reputation for honesty and integrity”.

Latham & Watkins CRM Petition Item #2 - to ensure better enforcement of the professional standards set by the independent society charged with administering the CRM certification program

PFEC Chair van Emmerik stated that CRM disciplinary cases should be handled as RPF cases are currently handled now, through the PFEC.

Member Snyder stated that he concurs with having the PFEC handle CRM cases and that we should have similar pathways to disciplinary action.

Member Rodrigues stated that all specialty licenses should be handled through PFEC disciplinary case process going forward.

Cal Pac member Susan Marshall agreed that CRM cases should be handled by PFEC and not the panel. She mentioned that the panel will only handle CRM exam applicants as it relates to reviewing qualifications and providing technical expertise.

Latham & Watkins Attorney Taiga Takahashi mentioned that he would like to see “good moral character” and professional standards be clearly defined for CRMs. Also, he does not want to see 3rd party entities acting in an advisory role in future CRM cases.

Snyder has mentioned that RPFs on PFEC may not have the expertise to judge on CRM specialty cases.

Marshall has stated that there is one CRM specialty seat on PFEC filled by member Forero.

The Board EO Matt Dias stated that PFEC can hire investigators with CRM specialty when cases arise. The PFEC does not have to rely on the CRM Panel to handle cases.

Taiga Takahashi mentioned that he would like clarification on regulations on who can investigate and a clear process that outlines the guidelines for disciplinary cases.

PFEC member Poburko stated that he would like one process to handle all disciplinary cases on all licenses.

PFEC member Sendek agreed with Poburko on one process for all cases.

Latham & Watkins Attorney Takahashi requested information on the amount of cases handled by PFEC and the process.

Board EO Matt Dias stated that over 300 cases have been handled since the 70's and on average, 3-4 cases are handled per year. He has mentioned that not all complaints move forward to PFEC as it could be handled through the administrative process.

Member Rodrigues has mentioned that for PFEC disciplinary cases, outside organizations such as ACL have been consulted for advice. PFEC membership consists of a variety of seats to make decisions on cases (PRC 763 (a)(1)(2)(3)). She stated that for CRM licenses and other "future" specialty cases, outside entities should be involved.

Member Snyder stated that felonies don't necessarily get litigated. What about the requirements in statute for "good moral character"? Board Council Should clarify "good moral character" for future PFEC actions. He mentioned that the clause is only mentioned in statute under the initial qualification process.

Takashashi mentioned that section 778 gives the Board the authority to take actions for good moral character as they see fit. He mentioned that good moral character should not only be considered for initial qualification process but enforced through renewal process every two years. He questioned whether PRC 1612.1 (g) could apply to a certificant or registrant having "good moral character"?

Rodrigues stated we should trust the process that has worked for all disciplinary cases for RPFs. The same process should work for CRM and other specialty cases. A separate process is not necessary to handle cases.

PFEC reached a consensus that RPF, CRM and future specialty license programs share the same disciplinary processes and be handled through the Professional Foresters Examining Committee.

4-4-02 Snyder moved for the above action. Member Forero seconded.

Roll Call: Rodrigues (Aye); van Emmerik (Aye); Poburko (Aye); Forero (Aye); Snyder (Aye); Sendek (Aye). Motion carries unanimously.

Latham & Watkins CRM Petition Item #4 - to oversee and maintain impartiality in all CRM disciplinary proceedings.

PFEC members Rodrigues and Sendek mentioned that for impartiality, members recuse themselves when potential conflicts of interest arise.

Poburko stated if the RPF discipline process is utilized, impartiality for CRM cases should be implied since all PFEC seats except one are held by RPFs.

Member van Emmerik stated that no independent entity should be used for guidance or recommendation on disciplinary cases and PFEC should control how CRM cases are handled.

Latham & Watkins Attorney Takahashi stated that if an investigator is hired, he or she should be impartial for all cases.

Board EO Matt Dias stated that all cases and information are kept confidential and may not be available for the public unless there is an accusation filed and a case is moved forward to an administrative judge.

Member Snyder requested Board Counsel to address at what point in the discipline process can we offer transparency?

Member Sendek wants transparency for cases but confidentiality should still apply.

EO Stapleton stated that all cases are included in the bi-annual licensing news and sent out to all RPFs and CRMs.

Takahashi stated that he would like letters to complainants to include findings on how the decision was reached by PFEC. Proposed expanding 1612.2 to include the results of investigations, for example in subsection (b)(1) (A-D). Additionally, PRC 1647 should provide a complainant an opportunity to appeal.

Member Rodrigues would like clarification on transparency and the use of policy 7, 8 and 9 in the discipline process by Board Counsel.

Member Snyder wanted to know if policy 7, 8 and 9 can improve process, provide clarity and avoid underground regulation issues if put into regulation. There is a perception that proceedings are done in a vacuum. How can we improve transparency?

Latham & Watkins CRM Petition Item #7 - to improve enforceability of the Professional Society Reporting Requirements, including the timely submission of annual reports by internal certification panels to the relevant professional societies and/or public agencies.

Member Snyder mentioned that reporting for CRM should be handled by PFEC moving forward. The PFEC can take information from Cal Pac regarding the qualifications for CRM applicants and include that on PFEC reporting.

Cal Pac SRM member Susan Marshall mentioned that Cal Pac already provides detailed records to Licensing office regarding all applicants and will continue that.

Rodrigues mentions that paid employees such as EO should be responsible for reporting and hold them accountable for it. Language should be amended to include that all reporting should be handled through PFEC moving forward.

CRM discussion will continue in next PFEC meeting that will be held in June 2018.

4. Discussion of the current condition of the Professional Foresters Fund and fund sustainability. Expenditures from the fund.

EO Stapleton has provided PFEC with fund forecast with possible scenarios for increased renewal fees, payroll step increases, and inflation. EO stated that the renewal fee should be increased by 84% for fund sustainability. The last increase to \$190 in 1991 was a 72% increase and lasted almost 30 years.

Member Forero mentioned that he would like to discuss an increase on exam fees to recover the \$6,000+ that is lost per exam.

EO Stapleton mentioned that the “application fee” in statute is already at \$200 and would require a legislative change.

Member Snyder mentioned that it may not be worth going through legislative process for a loss of that amount.

PFEC Chair van Emmerik stated that the PFEC should consider recovering exam costs as much as possible before fees are increased.

EO Stapleton stated that YG has opened discussion to CLFA regarding possible renewal fee increases to start spreading the word. He also mentioned that the fees have not been increased since 1991.

EO stated that the current estimate of valid licensed RPFs is composed of approximately 23% retiree. These registrants could possibly be lost after the fee increase.

Member Sendek mentioned that he would like to proceed with a legislative proposal for a retired license fee.

EO stated that all options for recovery will be considered and more information will be brought forth to the next PFEC meeting.

6. PFEC membership expiration and consideration of PFEC appointments.

EO Stapleton stated that per the employment data collected on RPFs, a private consultant and industry member should be considered for appointment to PFEC.

Member Rodrigues mentioned that old nominees from 2017 should be included. Also, she would like to see a process for how feedback is provided to the PFEC membership applicants. She would like to see diversity in the PFEC.

EO stated that Dan Sendek will be re-appointed in June and that should make 7 (seven) total members with PFEC. He stated that he will re-open the call for nominations until June 1, 2018 and bring all nominations to the next PFEC meeting for discussion.

Member Poburko stated that he would like to see a consulting forester member for representation.

Member Rodrigues will continue membership until May 2019.

4-4-03 Forero moved to adjourn meeting. Member Snyder seconded.

Roll Call: Rodrigues (Aye); van Emmerik (Aye); Poburko (Aye); Forero (Aye); Snyder (Aye). Motion carries unanimously.

Adjourn.